

BAIL SLIP

The Accused namely viz Anvardeen S/o Abdul Rahaman was directed to be released on Bail as per order dated 02.09.2015 made in CRL.MP.No1/15 in CRL.A.No.523/15

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Appeal No.523 of 2015

Anvardeen ... Appellant/Accused

Vs

State rep. By
Inspector of Police,
Virudhachalam Police Station,
Cuddalore District,
(Crime No.812/2010) ... Respondent/Complainant

Prayer:- Criminal Appeal filed under Section 374(2) Cr.P.C., to set aside the conviction and sentence passed by the learned Sessions Judge, District Magalir Sessions Court, Cuddalore, in S.C.No.6 of 2012 dated 07.02.2015.

For Appellant : Mr. M.L.Ramesh

For Respondent : Mr.M.Maharaja,
Additional Public Prosecutor

JUDGEMENT

(Judgment of the Court was delivered by V.Bharathidasan.J)

The sole accused in S.C.No.6 of 2012 on the file of the learned Sessions Judge, District Magalir Sessions Court, Cuddalore, is the appellant herein. He stood charged for an offence under Section 302 I.P.C. By judgment dated 07.02.2015, the trial Court convicted the accused for an offence under Section 302 I.P.C., and sentenced him to undergo imprisonment for life and to pay a fine of Rs.1000/-, in default to undergo

Rigorous Imprisonment for six months. Challenging the said conviction and sentence, the accused/appellant is before this Court with this Criminal Appeal.

2.The case of the prosecution, in brief, is as follows:-

The deceased, in this case, one Katheejabheevi, is the wife of the accused. Their marriage took place on 03.01.2010. The accused was living a wayward life and hence, there were frequent quarrel between the accused and the deceased right from the date of marriage. Due to frequent quarrel, P.W.1, who is the father of the deceased, brought both the deceased and the accused to his place and settled them in a rented house, in front of his house and also arranged for an employment to the accused. Even thereafter, the accused used to quarrel with the deceased. On 24.11.2010, at about 10.30 p.m., there was a quarrel between the accused and the deceased. Hence, P.Ws.1 and 2, who are father and sister of the deceased, went there and pacified them. On the next day morning, i.e., 25.11.2010, P.W.1 asked P.W.2 to visit her sister. When P.W.2 went to the house of the accused and asked about the deceased, the accused, hurriedly, went out of the house in a perturbed mood. Then, P.W.2, went inside the house and found the deceased dead, with injuries and also found a poisonous substance placed near the deceased. When, they searched for the accused, he was found missing. Hence, P.W.1 went to the police station and lodged a complaint (Ex.P.1).

3. P.W.8, Sub-Inspector of Police, based on the complaint given by P.W.1, registered a case in Crime No.812 of 2010 for an offence under Section 302 IPC and sent the First Information Report, Ex.P.10 to P.W.9 and the jurisdictional Magistrate Court.

4. On receipt of the First Information Report, P.W.9, the Inspector of police, commenced the investigation and proceeded to the scene of occurrence and prepared an Observation Mahazar (Ex.P.8) and a Rough Sketch (Ex.P.11), in the presence of witnesses and recorded the statements of the witnesses. He also recovered blood stained pillows(M.O.1), Grinder stone(M.O.2), blood stained lungi (M.O.3), blood stained brief (M.O.4), blood stained full hand shirt (M.O.5), steel vessel containing pesticide (M.O.6) and also two empty packets of pesticides (M.O.9) and also some other material objects under a Mahazar, Ex.P.9. Then, he conducted inquest on the dead body of the deceased, in the presence of panchayathars and prepared an Inquest Report(Ex.P.12) and sent the dead body for postmortem to the Government Hospital, Virudhachalam.

5. P.W.3, Doctor, working in the Government Hospital, Virudhachalam, conducted postmortem on the dead body of the deceased, on 26.11.2010, at 10.00 a.m., and found the following injuries:

“ External injuries :

1. A laceration of 5 cm x 0.5 cm x bone depth in lateral 1/3 of left eyebrow oblique.
2. Contusion 4 x 3 cm right molar area.
3. Laceration 0.5 x 0.5 cm x 0.5 cm lateral 1/3 of left upper lip.
4. Contusion 4 x 3 cm in right upper quadrant of right breast.
5. Contusion 5 x 4 cm in right upper quadrant of left breast.
6. An abrasion 4 x 2 cm right upper quadrant of left breast near the contusion number 5. ”

Ex.P.3 is the postmortem certificate and he was of the opinion that the deceased would appear to have died of shock and hemorrhage due to injuries to vital organ, Heart. He sent the viscera material for chemical analysis and after obtaining viscera report, viz., stomach, intestine, liver, kidney, which contained Benzene hexa chloride, opined that the deceased would appear to have died of benzene hexa chlorids Organochloro pesticide poisoning.

6. P.W.9 further proceeded with enquiry and on 26.11.2010, at a bus stop, in Chidambaram, he arrested the accused in the presence of the witnesses. On such arrest, the accused voluntarily gave confession, and P.W.9 recorded the same and sent the accused for judicial custody. Then, he recorded the statements of the Doctor, who conducted postmortem on the dead body of the deceased and other witnesses. After completing the investigation, he laid charge sheet against the accused.

7. Based on the above materials, the trial Court framed the charges as detailed in the first paragraph of this judgment against the accused. The accused denied the same. In order to prove the case of the prosecution, on the side of the prosecution, as many as 9 witnesses were examined and 12 documents were exhibited, besides 16 Material Objects.

8. Out of the witnesses examined, P.W.1 is the father of the deceased. According to him, there were frequent quarrel between the accused and the deceased and when on 24.11.2010, at about 10.30 p.m., there was a quarrel between the accused and the deceased, he along with his daughter, P.W.2, went there and compromised them. He has further stated that on the next day morning, he found her daughter died with serious injuries,

inside the house and at that time, the accused was also present there, and thereafter, he came to know that the accused forced the deceased to consume poison and after that he had dropped the grinder stone on her chest and caused her death.

9. P.W.2 is the sister of the deceased. According to her, when she went to the house of the deceased, on 25.11.2010 at about 7.00 a.m., since the house was locked inside, she knocked the door and the accused opened the door and rushed out of the house and ran away in a perturbed mood and when she went inside the house, she found her sister dead with injuries inside the house.

10. P.W.3 is the doctor, who conducted postmortem on the dead body of the deceased and issued Postmortem Certificate, Ex.P.3. P.W.4 is the Scientific Officer working in the Regional Forensic Lab, Villupuram. According to him, he examined the blood stained material and also internal parts of the body of the deceased and gave reports Ex.P.4 and Ex.P.7. P.W.5, a neighbour of the deceased, has stated that on the date of occurrence, when he heard the noise of P.W.2, he saw the accused coming out of the house and running away from his house carrying a bag. P.W.6 is also a neighbour of the deceased. He has spoken about the quarrel between the accused and the deceased. P.W.7 is a witness to the Observation Mahazar, who has also witnessed the recovery of material objects. P.W.8 is the Sub-Inspector of Police, and he has spoken about registering the complaint and forwarding the same to the Court and to the higher officials. P.W.9 is the Inspector of Police, and according to him, he commenced the investigation, arrested the accused, recovered the material objects and recorded the statement of the witnesses and after completing investigation, he has filed the charge sheet against the accused.

11. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., he denied the same as false. However, he did not choose to examine any witnesses on his side.

12. Having considered all the above, the trial Court found the accused guilty under the lone charge of murder and accordingly, sentenced him as detailed in the first paragraph of this judgment. Aggrieved over the same, the accused/appellant is before this Court with this appeal.

13. We have heard Mr. M.L.Ramesh, the learned counsel appearing for the appellant and Mr.M.Maharaja, the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

14. The learned counsel for the appellant would submit that there is no eyewitness to the occurrence and the prosecution also did not prove the circumstances relied upon by

them, beyond any reasonable doubt. Merely because of the accused and the deceased were living in the same house, it cannot be presumed that the accused has committed the murder of the deceased, is his further submission. He also submits that P.Ws.1 and 2, father and sister of the deceased, being interested witnesses, their evidence cannot be relied upon to hold the accused guilty of the offence.

15. Per contra, the learned Additional Public Prosecutor submits that the prosecution has established all the circumstances relied upon by them. It is his further submission that the motive for the occurrence was also proved and the evidence of P.Ws.1,2,5 and 6 and the medical evidence also supported the theory of the prosecution and hence, he sought for dismissal of the appeal.

16. We have considered the rival submissions.

17. It is a case of circumstantial evidence. The deceased is the wife of the accused. They were living together in a house opposite to the house of P.Ws.1 and 2. It is the evidence of P.Ws.1,2 and 5 that there were frequent quarrel between the accused and the deceased. The testimony of P.Ws.1 and 2 was that before the date of occurrence, i.e. on 24.11.2010, at about 10.30 p.m., there was a quarrel between the deceased and the accused and P.W.1 and P.W.2 compromised them. At that time, the accused was also present inside the house. On the next day, i.e., 25.11.2010, in the morning, at about 7.00 a.m., P.W.2, sister of the deceased, has gone to the house of the accused and found it locked from inside and when she knocked the door, the accused had opened the door and rushed out of the house, in a perturbed mood. P.W.5, neighbour has also seen the accused running out of his house. Thereafter, P.W.2, went inside the house and found the deceased dead with serious injuries. Hence, it is established by the prosecution that the accused was inside the house at the time of occurrence and subsequently, he has ran away and absconded. The occurrence has taken place in the house of the accused. Hence, it is for the accused to explain the cause of death of the deceased and the onus is on him to explain the circumstances leading to her death. But the accused did not come forward to give any explanation for the death of the deceased inside their house.

18. Apart from that, the conduct of the accused is also to be considered. In the morning, when P.W.2 knocked the doors of the accused house, the accused opened the door and ran away from the house. P.Ws.1,2 and 5 had witnessed the same. Thereafter, he was absconding and he was arrested only on the next day, by P.W.10, the Investigating Officer. Hence, the above conduct of the accused is also an another circumstance against him. The abscondence of the accused itself is a positive

circumstance, consistent only with hypothesis of the guilt of the accused.

19. Hence, the prosecution has established that it is only, this accused, who caused the death of the deceased, by giving her poison and also dropping a grinder stone on her chest. The medical evidence also supports the case of the prosecution. Hence, we are of the considered opinion that the prosecution has proved its case beyond any reasonable doubt. Thus, the appeal fails and deserves to be dismissed.

20. In the result, the criminal appeal is dismissed and the conviction and sentence imposed by the trial Court is confirmed. If the accused is on bail, the trial court is directed to take steps to secure the presence of the accused/appellant and commit him to jail to undergo the remaining sentence imposed on him.

s/d-
Assistant Registrar (CS III)

//True Copy//

Sub-Assistant Registrar

To

1. The Sessions Judge,
District Magalir Sessions Court,
Cuddalore.
2. The Inspector of Police
Virudhachalam Police Station, Cuddalore District
3. The Superintendent, Central Prison, Cuddalore
4. The Judicial Magistrate No I, Virudhachalam
5. -do- Thro The Chief Judicial Magistrate, Cuddalore
6. The District Collector, Cuddalore, Cuddalore District
7. The Director General of Police, Mylapore, Chennai 600 004.
8. The Superintendent of Police, Cuddalore, Cuddalore District
9. The Public Prosecutor,
High Court, Madras.
- +1 CC to Mr. M.L. Ramesh , Advocate sr 38697

CrI.A.No.523 of 2015

NRJK (CO)
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